

FILED

JUL 27 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE LIBRADO REYES-ROCHA,

Defendant - Appellant.

No. 05-10511

D.C. No. CR-04-00898-NVW

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS and THOMAS, Circuit Judges.

Jose Librado Reyes-Rocha appeals from the district court's judgment and 46-month sentence imposed following his guilty-plea conviction for illegal re-entry after deportation, in violation of 8 U.S.C. § 1326(a), as enhanced by (b)(2).

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Reyes-Rocha has filed a brief stating that there are no grounds for relief, and a motion to withdraw as counsel of record. Reyes-Rocha filed a pro se supplemental brief, and the government has not filed an answering brief.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988), and we dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered into knowingly and voluntarily); *see also United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir. 2005) (holding that the changes in sentencing law imposed by *United States v. Booker*, 543 U.S. 220 (2005), did not render waiver of appeal involuntary and unknowing).

Counsel's motion to withdraw is **GRANTED** and this appeal is **DISMISSED**.